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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/536,377	03/28/2000	Douglas Clark	M3653.0001/P001-C	4895

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EXAMINER

THOMPSON JR, FOREST

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 08/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/536,377

Applicant(s)

CLARK, DOUGLAS

Examiner

Forest O. Thompson Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 March 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

1. Claims 1-10 have been examined.

#### ***Double Patenting***

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1-10 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-10 of copending Applications No. 09/536,278 and 09/536,383. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: the claims of each of the three applications are duplicates of the other applications.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other

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copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

### ***Drawings***

The drawings filed on 28 March 2000 are objected to by the Examiner. In order to avoid abandonment of this application, correction is required.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: fig. 1 and 2: #1, 2, 3, and 4; fig. 5: #24; fig. 6: #38; fig. 7: #52, 54, 56, 58, 60, 62, 64, 66, 68, 70, 72, 74, 76, 78, 80, and 81; fig. 9: #106 and 110; fig. 10: #124 and 130. These reference signs are on the drawings noted, but are not included in the description of the identified drawings in the specification. Correction is required.

### ***Claim Objections***

4. Claim 8 is objected to because of the following informalities: on pg. 27 line 4, applicant states "computing an risk factor." On pg. 27 line 4, "computing an risk factor" should be changed to "computing a risk factor" for clarity and proper grammar.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by William R. Duncan, "A Guide to the Project Management Body of Knowledge," Project management Institute, 1996, hereafter referred to as Duncan.

7. Applicant has become his own lexicographer and defined his own terms for features of his invention. For clarity and use in this examination, examiner uses the following definitions for the indicated terms, based on their definition/discussion in the specification:

- **tasking horizon** - the farthest point in time in the future where a manager believes a task will be completed as planned (pg. 8). Examiner interprets this to be synonymous with *planned end of task date* or *planned task completion date*.
- **verb** - designed to capture the type of dialogue that a worker would use to explain why a task was or was not started and/or completed as planned (pg. 12), or used to classify the reasons for churn, or in other words the reason for why the task was performed as planned or not performed as planned (pg. 14).
- **churn** - the movement of tasks in relation to the tasking horizon (pg. 8), or the difference between the planned start and stop dates and the actual start and stop dates (pg. 14)..

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Claims 1 and 9: Duncan discloses:

- breaking a project into multiple tasks, wherein there is at least a first task and a second task (pg. 30-32, para. 3.3.2; pg. 59, para. 6.1);
- selecting a tasking horizon (pg. 30-32, para. 3.3.2; pg. 170 ), described as target finish date and schedule development;
- selecting at least two verbs for said first task (pg. 46, para. 4.3.3.3), where verbs are encompassed by lessons learned;
- selecting at least two verbs for said second task (pg. 46, para. 4.3.3.3), where verbs are encompassed by lessons learned;
- assigning said first task to a first task assignment station (pg. 97, para. 9.1.3.1-4);
- assigning said second task to a second task assignment station (pg. 97, para. 9.1.3.1-4);
- receiving a predicted start date and a predicted completion date for said first task from said first task assignment station (pg. 31; fig. 3-5 [6.3]), which is disclosed as activity duration estimating;
- receiving a predicted start date and a predicted completion date for said second task from said second task assignment station (pg. 31; fig. 3-5 [6.3]), which is disclosed as activity duration estimating;
- receiving an actual start date and a verb for said first task (pg. 31; fig. 3-5 [6.4]; pg. 159), which is disclosed as schedule development, activity definition and actual start date, respectively;

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- receiving an actual start date and a verb for said second task (pg. 31; fig. 3-5 [6.4]; pg. 159), which is disclosed as schedule development, activity definition and actual start date, respectively;
- comparing said predicted start date said actual start date (pg. 107-108, para. 10.3; pg. 109 fig. 10-2; pg. 110 fig. 10-3; pg. 113, para. 11.1.1);
- computing churn of said first task (pg. 107-108, para. 10.3; pg. 109 fig. 10-2; pg. 110 fig. 10-3; pg. 113, para. 11.1.1);
- computing churn for said second task (pg. 107-108 para. 10.3; pg. 109 fig. 10-2; pg. 110 fig. 10-3; pg. 113 para. 11.1.1);
- computing a risk factor for said first task (pg. 115-118, para. 11.2; fig. 11-1; fig. 11-2); and
- computing a risk factor for said second task (pg. 115-118, para. 11.2; fig. 11-1; fig. 11-2).

Claim 2: Duncan discloses classifying said received verb as employee dependent (pg. 95, para. 9.1.1.2-3).

Claim 3: Duncan discloses classifying said received verb as task dependent (pg. 61-62 para. 6.1.3).

Claim 4: Duncan discloses classifying said received verb as environment dependent (pg. 61-62 para. 6.1.3).

Claim 5: Duncan discloses computing a risk factor based at least in part on said computed churn (pg. 115-118, para. 11.2; fig. 11-1; fig. 11-2).

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Claim 6: Duncan discloses computing a risk factor based at least in part on said received verb (pg. 115-118, para. 11.2; fig. 11-1; fig. 11-2).

Claim 7: Duncan discloses:

- comparing said tasks of said project to previously performed tasks (pg. 113, para. 11.1.1.3);
- extracting previously performed task completion data (pg. 113, para. 11.1.1.3);  
and
- computing an expected task completion time based at least in part on said previously performed task completion data (pg. 113, para. 11.1.1.1-3).

Claim 8: Duncan discloses

- comparing said tasks of said project to previously performed tasks (pg. 113, para. 11.1.1.3);
- extracting a risk factor associated with said previously performed tasks (pg. 113, para. 11.1.1.3); and
- computing a risk factor based at least in part on said extracted risk factor (pg. 115-117, para. 11.2; fig. 11-2).

Claim 10: Duncan discloses:

- a management module for:
  - breaking a project into tasks (pg. 30-32, para. 3.3.2);



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- selecting a tasking horizon (pg. 30-32, para. 3.3.2; ), through schedule development; and
- assigning at least two verbs for at least one of said tasks (pg. 30-32, para. 3.3.2), through activity definition and activity sequencing;
- a task assignment station (pg. 96, fig. 9-2) for:
  - receiving said at least one task (pg. 42, para. 4.21.3), through responsibility assignments and project planning;
  - entering a predicted start date for said at least one task (pg. 42, para. 4.21.3), through establishing a scheduled start date; and
  - entering an actual start date (pg. 157; pg. 159; pg. 70; fig. 6-7 and 6-8), through representation of activity/project dates on graphs and charts;
- said management module and said assignment station are operationally connected (pg. 8-9-10, para. 1.4-5; fig. 1-2); and
- said management module:
  - receives predicted start date and said actual start date (pg. 31; fig. 3-5 [6.3]; pg. 31; fig. 3-5 [6.4]; pg. 159); and
  - computes a churn (pg. 107-108, para. 10.3; pg. 109 fig. 10-2; pg. 110 fig. 10-3; pg. 113, para. 11.1.1).

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and includes:

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- **Miller** (U.S. Patent No. 6,101,481) discloses a method of managing a plurality of tasks to be carried out by a plurality of personnel, each of the tasks having identified task details relevant thereto.
- **Levinson** (U.S. Patent No. 6,047,260) discloses a method for intellectually planning comprising the steps of receiving a plurality of tasks that a user needs to perform.
- **Lautzenheiser et al.** (U.S. Patent No. 6,023,572) discloses a system and method for modeling activities of people in an organization.
- **Huemoeller et al.** (U.S. Patent No. 5,855,006) discloses a system to access data from various sources to provide the user with information that is required to enable the user to conveniently and expeditiously schedule activities.
- **Knudson et al.** (U.S. Patent No. 5,765,140) discloses a dynamic project management system to identify a personnel resource pool including a plurality of users.
- **Breslin** (U.S. Patent No. 5,321,610) discloses a process for developing an integrated implementation product for implementing large packaged application software which produces four components to speed the implementation of large application software into a user company's computer system.
- **Chapman et al.** (U.S. Patent No. 5,255,181) discloses a method for translating complex process flow networks into plans or schedules for the manufacturing of products or the performance of organizational activities.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest O. Thompson Jr. whose telephone number is (703) 306-5449. The examiner can normally be reached on 6:30-3:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344.

The fax phone numbers for the organization where this application or proceeding is assigned are:

- (703) 305-7687 for regular communications, and
- (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

  
F. Thompson  
August 22, 2002

  
WYNN W. COGGINS  
SUPERVISORY PATENT EXAMINER  
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